

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
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Lifeline and Link-Up	)	WC Docket No. 03-109
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	)	

**JOINT COMMENTS  
of the  
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE,  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION,  
ORGANIZATION FOR THE PROMOTION AND  
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES,  
UNITED STATES TELECOM ASSOCIATION, and  
WESTERN TELECOMMUNICATIONS ALLIANCE**

The Independent Telephone & Telecommunications Alliance (ITTA), the National Telecommunications Cooperative Association (NTCA), the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), the United States Telecom Association (USTA), and Western Telecommunications Alliance (“the Associations”)<sup>1</sup> hereby submit these Comments in support of the request of the California Public Utilities Commission and the People of the State of California (California or the CPUC) for an extension of time to transition to the new criteria established by the Federal Communications Commission (Commission or FCC) for states

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<sup>1</sup> The Associations are membership organizations that collectively represent nearly all incumbent local exchange carriers providing service in the United States. The Associations’ members participate in the federal Lifeline/Link-Up program.

seeking reimbursement from the federal Lifeline/Link-Up program. The Associations request an identical extension for our member companies.

On April 29, 2004 the FCC released a *Report and Order and Further Notice of Proposed Rulemaking* expanding the federal default eligibility criteria for the Lifeline/Link-Up programs to include an income-based criterion and an additional means tested program.<sup>2</sup> Notice was published in the Federal Register (FR) giving an effective date for the new rules of July 22, 2004, except for 47 C.F.R. §§ 54.405(c) , 54.405(d), 54.409(d), 54.409(d)(3), 54.410, 54.416, and 54.417. Those rule provisions contain information collection requirements that required approval by the Office of Management and Budget (OMB).<sup>3</sup> The FR notice stated that the Commission would publish a document in the FR announcing the effective date of the excepted sections following OMB approval. No notice has been published in the FR to date.<sup>4</sup>

On January 31, 2005, the FCC released an “erratum” setting the implementation deadline of various subsections of 54.410 to June 22, 2005.<sup>5</sup> Those subsections require eligible telecommunications carriers (ETCs) in states that mandate state Lifeline support to comply with state Lifeline rules and determine consumer eligibility before enrollment and verify their eligibility on a continuing basis.<sup>6</sup> The subsection further requires ETCs

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<sup>2</sup> Lifeline and Linkup, WC Docket No. 03-109, FCC 04-87, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd. 8302 ¶ 1 (2004).

<sup>3</sup> Lifeline and Linkup, WC Docket No. 03-109, *Report and Order and Further Notice of Proposed Rulemaking*, 69 Fed. Reg. 34590 (2004).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* The *erratum* modified §§ 54.410(a)(i), (a)(ii), (c)(i), and (c)(ii) by replacing the phrase “By one year from the effective date of these rules,” with “On June 22, 2005.” Lifeline and Linkup, WC Docket No. 03-109, DA 05-262, *Second Erratum*, (Rel. January 31, 2005).

<sup>6</sup> *Report & Order*, Appendix A, Final Rules §§ 54.410(a)(i) and (a)(ii).

in states that do not mandate state Lifeline support to implement their own certification procedures and verify continued eligibility by processing a statistically valid sample of randomly selected Lifeline consumers and providing that data to USAC.<sup>7</sup> As noted above, these requirements were originally to be implemented by one year from the date the Commission published in the FR notice of OMB approval.

On March 22, 2005 the California Public Utilities Commission (CPUC) filed a request with the Commission asking it to extend the implementation deadline to March 1, 2006.<sup>8</sup> The CPUC states that it has made reasonable preparations to implement the Commission's new criterion for the federal Lifeline/Link-Up programs. The CPUC shows that it has studied the FCC's new criteria, initiated a rulemaking, and considered a draft order at its public agenda meeting.<sup>9</sup> The CPUC's order contemplates hiring a third party certification contractor to perform automatic enrollment<sup>10</sup> to determine consumer eligibility for Lifeline subsidies.<sup>11</sup> The CPUC's order also contemplates conducting a workshop from which a Request for Proposal (RFP) would be developed. Time is then

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<sup>7</sup> *Report & Order*, Appendix A, Final Rules §§ 54.410(c)(i), and (c)(ii).

<sup>8</sup> California asked for "an extension of time to March 1, 2006 to transition to new criteria established by the Federal Communications Commission for states seeking reimbursement from the federal Lifeline/Link-Up program." Lifeline and Linkup, *Request of the California Public Utilities Commission and the People of the State of California for an Extension of Time*, WC Docket No. 03-109 (March 22, 2005) ("Request") at 1. In its Public Notice, the Commission stated that California requests an extension of time to comply with sections 54.409(a) and 54.415(a). Lifeline and Linkup, WC Docket No. 03-109, DA 05-1114, *Public Notice*, (rel. April 21, 2005).

<sup>9</sup> *Request* at 4.

<sup>10</sup> Automatic enrollment is defined by the Federal-State Joint Board on Universal Service as an "electronic interface between a state agency and the carrier that allows low-income individuals to automatically enroll in Lifeline/Link-Up following enrollment in a qualifying public assistance program." Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Recommended Decision*, 18 FCC Rcd 6589, 6591 ¶ 1 (2003).

<sup>11</sup> *Request* at 3.

needed for potential certifying agents to go through the competitive bid process and be selected. After the bid process is complete and reviewed by the appropriate California authorities, the selected vendor must then be given adequate time for testing. The CPUC states that it cannot complete this process by the June 22 deadline.

Given the importance of the Lifeline/Link-Up program to low-income consumers, the CPUC's request for extension of time should be granted, and the requested extension of time should apply to all affected parties including ETCs subject to section 54.410. The Commission's *Report and Order* originally allowed for one year from the effective date of the Order for carriers to implement the new Lifeline/Link-Up certification requirements.<sup>12</sup> This would have been a reasonable time for carriers to comply with the rule. The June 2004 FR notice expressly stated the "Commission will publish a document in the Federal Register announcing the effective date"<sup>13</sup> of section 54.410 of the rules. No such document was ever published. The Commission's January 2005 *Errata* is the only notice carriers have had that this rule section may have in fact taken effect. The *Errata*, however nullifies the expected implementation time frame of *one year from the effective date* of the rule and instead gives *4 months* notice from the release of the FCC correction.<sup>14</sup>

Carriers have also found complying with the rule problematic due to uncertainty regarding the default state and non-default state rules. While rules governing federal and

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<sup>12</sup> *Report and Order*, Appendix A, Final Rules §54.410(a)(i), (a)(ii), and (c)(ii) order carrier compliance "By one year from the effective date of these rules."

<sup>13</sup> 69 Fed. Reg. at 34590.

<sup>14</sup> *Id.* Language published in Federal Register in June 2004 acknowledged that an information collection had to be approved by the Office of Management and Budget (OMB) before the revised rules could be implemented.

state Lifeline/Link-Up programs may be identical in any particular state, states without their own Lifeline/Link-Up programs default to federal Lifeline/Link-Up rules. States with their own matching programs may also elect to default to federal rules, or implement their own programs consistent with the FCC's requirements. Some states are uncertain which rules to follow because though they have not implemented a state or matching Lifeline/Link-Up program, they may have enacted eligibility requirements for the federal Lifeline/Link-Up program.<sup>15</sup> For those states that do not follow the default rules, but have otherwise not created a mechanism to comply with the new federally mandated eligibility criteria, carriers are left in a void of uncertainty that may render them unable to fully comply with the rules.<sup>16</sup>

States may wish to implement an automatic enrollment program, develop on-line verification systems, or as California has done, search for a third party agent to certify consumer eligibility for Lifeline/Link-Up. While the FCC has refrained from mandating nation-wide automatic enrollment or on-line verification at this time, it has encouraged states to adopt this method of certification.<sup>17</sup> Advancing a premature deadline to implement the certification requirements only serves to discourage use of efficient systems.

Consumers will also be impacted by rushing to meet a June 2005 deadline. Proof of income eligibility has been added for the first time for federal default states. This

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<sup>15</sup> The *Report and Order*, Appendix G lists Federal Default States. States are, however, responsible for providing their status to the Commission.

<sup>16</sup> Without state guidelines, laws, or rules in place, does a carrier switch to the Commissions default rules? If state rules are pending, are default rules used in the interim?

<sup>17</sup> 69 Fed. Reg. at 34593.

requires ETCs to verify annually the continued eligibility of a statistically valid sample of subscribers who must present appropriate proof of household income. It is expected that applicants would provide a wide range of supporting documentation (not all providing proof of eligibility). Allowing adequate time to pursue and implement efficient certification procedures would best serve the Commission's universal service goals.

The Associations urge the Commission to grant California's request for extension of time and extend the deadline to all affected parties, including ETCs subject to section 54.410. A March 2006 deadline would be consistent with the timeline envisioned when the *Report & Order* was released. This will ensure proper implementation of the new rules, meet the Commission's goals of improving the effectiveness of low-income support mechanisms, and ensure quality telecommunications services to low-income consumers at just, reasonable and affordable rates.

May 16, 2005

Respectfully Submitted,

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## CERTIFICATE OF SERVICE

I, Meena Joshi, certify that a copy of the foregoing comments of the Independent Telephone & Telecommunications Alliance (ITTA), the National Telecommunications Cooperative Association (NTCA), the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), the United States Telecom Association (USTA), and Western Telecommunications Alliance (WTA) in WC Docket No. 03-109, DA 05-1114 was served on this 16<sup>th</sup> day of May 2005 by electronic mail or first-class, U.S. Mail, postage prepaid, to the following persons.

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